

### Remarks

Applicant has reviewed the Office Action dated as mailed February 22, 2006 and the documents cited therewith and the present amendment has been prepared in response thereto. Independent claims 1, 33, 37 have been amended. Dependent claims 6, 11, 13, 17, 18 and 44 have been amended. Independent claim 47, dependent claims 48 through 50, and independent claim 51 have been added. Claims 9, 10, 39 through 43 and 46 have been cancelled. Claims 19 through 32 are withdrawn.

Claim 1 as amended sets forth a receptacle defining a compartment adapted to house a product where the receptacle has a front and a back. A display tag is mounted to the receptacle and has a front face and slot adapted to receive a display hook for suspending the container at a product display. A receiving element formed on one of the tag or receptacle receives an engagement element formed on the other of the tag or receptacle such that the engagement element can rotate relative to the receiving element between a first position where the tag extends away from the receptacle with its front face generally toward the front and a second position where the tag is disposed behind the back of the receptacle.

Claim 1 was rejected as being anticipated by Roberts. Roberts discloses a handle for a detergent box where the handle connects to the detergent box using a bayonet type connection. The handle can rotate relative to the carton.

Claim 1 requires that the tag have a front face that faces toward the front of the receptacle when the engagement element is in a first position and a slot for receiving a display hook for suspending the container at a display. Further the front face is disposed behind the back of the receptacle when the engagement element is in a second position.

It is submitted that the further definition of the tag as having a front face and a slot for suspending the container from a display hook patentably distinguishes the tag of claim 1 over the handle of Roberts. There is no disclosure in Roberts for the handle having a front face that faces the front of the container. The front face and the slot structurally define the tag. It is the front

face that retains labels or other product information and it is the slot that defines the tag as a hang tag for suspending the container at a display. It is submitted that the handle of Roberts cannot be construed as a tag as that element is now defined in claim 1 and that claim 1 defines over Roberts.

Claim 1 further requires that the front face faces the front of the receptacle in a first position and is disposed behind the back of the receptacle in a second position. The handle of Roberts does not include a face that faces the front of the receptacle in a first position and the back of the receptacle in a second position. Even if an edge of the handle is assumed to be a face (and it is submitted that the edge of a handle does not constitute a face), the edge of the handle is not arranged behind back of the receptacle in the second position.

Claim 1 was also rejected as being anticipated by Weisburn. Weisburn discloses a display package where a hanger 3 can be located on base 4 in one of two positions such that the package can be displayed in one of two orientations. The hanger does not constitute a tag. Further the hanger cannot rotate relative to the box 2 as required by claim 1 between a first exposed position and a second hidden position. It is submitted that claim 1 is allowable over Weisburn.

Regarding claims 11 through 14, the Examiner relied on Essick for the teaching of the opening with a tab closure. While the Examiner has rejected the claims as being anticipated by Weisburn, it is clear that the rejection relies on the combination of references of Weisburn and Essick. The Examiner appears to be suggesting that the disclosure of Essick can be read into Weisburn under 35 U.S.C. § 102 (perhaps because both patents are assigned to the same assignee). This combination of references under Section 102 is contrary to well established law. If the Examiner's position is that it would have been obvious to combine Essick with Weisburn under Section 103, the obviousness rejection should be made explicit. It is submitted that the rejection under Section 102 should be withdrawn.

Further neither Essick nor Weisburn disclose the claimed invention. Claim 11 requires a lid with an opening. While both Essick and Weisburn disclose a base closed by a cover, neither reference discloses a lid that engages the body where an opening for removing product is formed in the lid.

Claim 14 requires a living hinge connecting the tab to the lid. A living hinge is known in the art as a hinge formed in a single piece of material where the hinge is created by a weakened or thinned portion of the material. Neither Essick nor Weisburn disclose a living hinge. It is submitted that claims 11 and 14 are separately allowable for the forgoing reasons.

Regarding claim 18, the Examiner rejected this claim pointing elements 42 and 43 in Fig. 3 of Roberts. Roberts describes these elements as neck sections. It is clear that these elements are not annular rings. Further claim 18 requires that the annular ring space the tag from the receptacle. Clearly the neck portions on the handle of Roberts do not operate in such a manner. It is submitted that claim 18 is also allowable.

Claims 2 through 8, and 13 through 15 all depend from one of the claims discussed above and are allowable for the same reasons.

Claim 33 was rejected as being obvious over Roberts. The Examiner stated that it would have been obvious to use the container of Roberts to hold a plurality of products such as tool bits. Claim 33 requires a display tag having labeling information located thereon rotatably mounted to the container. It is submitted that a tag with labeling information patentably distinguishes the claimed structure from the handle of Roberts. Roberts does not disclose handle 13 either structurally or functionally as a tag. Thus it is submitted that the handle of Roberts cannot be interpreted to meet the tag limitation of claim 33. Claim 33 further requires that the tag be movable between a first position where the labeling information is visible and a second position where the labeling information is located behind the container. Clearly Roberts does not show such an arrangement of components. It is submitted that claim 33 defines over Roberts and is allowable.

Claims 34 through 36 depend from claim 33 and are allowable for the same reasons given with respect to claim 33.

Claim 37 was rejected as being anticipated by Roberts and Weisburn. Claim 37 requires a hanging tag rotatably attached to the container and including an aperture dimensioned to receive a display hook for suspending the container on a merchandising stand, the hanging tag being

removable from the container. It is submitted that the tag having an aperture dimensioned for receiving a display hook for suspending the container from a merchandising stand patentably distinguishes the tag from the handle in Roberts.

Further, the tag is rotatable relative to the container and is removable from the container. The hanger 3 of Weisburn is not rotatable relative to the box, such that claim 37 defines over Weisburn. Further, the handle of Roberts is not removable from the carton. In fact Roberts teaches way from making the handle removable (col. 4, lines 3-14) as he describes a specific construction intended to maintain the connection of the handle with the carton. Thus, claim 37 defines over Roberts as well.

Claim 38 depends from claim 37 and is allowable for the same reasons given with respect to claim 37.

New claim 47 has been added. Claim 47 requires a display tag having a front face mountable to the receptacle. An engagement element engages a receiving element such that the engagement element can rotate relative to the receiving element between a display position where the tag extends away from said receptacle and the tag is disposed with its front face generally toward the front and a storage position where the tag is disposed behind the receptacle. A sensor is secured to the tag. A means for preventing access to the product through an opening in the receptacle is also provided.

Neither Wiesburn nor Roberts discloses the specific engagement element; the rotating tag where the tag rotates between a display position where the tag extends away from said receptacle and the tag is disposed with its front face generally toward the front and a storage position where the tag is disposed behind the receptacle; a sensor secured to a rotating tag; or a means for preventing access through an opening in the receptacle.

Neither Roberts nor Wiesburn disclose an anti-theft cover as claimed in claim 48 or an anti-theft cover that is broken to allow access through the opening as claimed in claim 49. Finally, neither Roberts nor Wiesburn disclose a projection is formed between the display tag and the receptacle to allow the display tag to freely rotate relative to the receptacle as set forth in claim 50.

Claim 51 has been added. Claim 51 requires a receptacle defining a compartment adapted to house a product, the receptacle having a front and a back and an opening for allowing access to the product. A display tag is mountable to the receptacle and has a front face and a slot for receiving a display hook for suspending the container. The front face includes labeling information. An engagement element formed on one of the tag and the back, where the engagement element includes at least one hook member having a latching protrusion extending outwardly from the at least one hook member. A receiving element comprising an aperture formed on the other of the tag and the back for receiving the engagement element such that the engagement element can rotate around an axis perpendicular to the front face relative to the receiving element between a display position where the tag extends away from the receptacle and the tag is disposed with the front face facing generally toward the front and a storage position where the tag is disposed behind the receptacle with the front face facing generally toward the back.

Neither Wiesburn nor Roberts discloses the invention set forth in claim 51. It is submitted that claim 51 defines over the art relied on by the Examiner and is allowable.

If the Examiner has any questions about the present Amendment a telephone interview is requested.

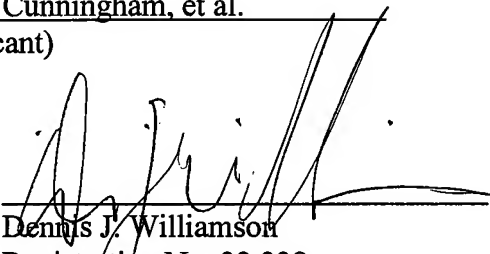
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Respectfully submitted,

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